

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DENNIS MURPHY, Guardian Ad Litem  
For N.E. D., an incapacitated minor; JACOB DOTSON;  
DOMINIQUE BILLY, individually and as next friend of I.C.  
and S.D., minors,

Plaintiffs,

No. 1:17-cv-00384-JAP-JHR

vs.

THE UNITED STATES OF AMERICA,

Defendant.

**ORDER ON PLAINTIFFS' MOTION TO COMPEL [Doc. 101]**

THIS MATTER comes before the Court on the Plaintiffs' *Motion to Compel, or Alternatively, to Strike Defendants' Affirmative Defenses*, [Doc. 101]. The Court finds that Defendant United States of America did provide discovery responses after Plaintiffs filed their Motion to Compel, making the motion moot and entitling Plaintiffs to be reimbursed for "reasonable expenses incurred in making the motion, including attorney's fees" under Federal Rule of Civil Procedure, Rule 37(a)(5)(A), unless certain circumstances apply. The Court need not determine whether such circumstances apply, as Plaintiffs waive their right to assert such claim for attorney's fees and expenses.

IT IS HEREBY ORDERED that Plaintiffs' Motion to Compel is moot and Plaintiffs waive their claim for any payment of attorney's fees and costs under Federal Rules of Civil Procedure, Rule 37(a)(5)(A).



The Honorable Jerry H. Ritter  
United States Magistrate Judge

SUBMITTED:

/s/ Theodore W. Barudin 7-13-18

Theodore W. Barudin  
BARUDIN LAW FIRM, P.C.  
7900 Menaul NE  
Albuquerque, NM 87110  
(505) 332-1800  
[tbarudin@barudinlaw.com](mailto:tbarudin@barudinlaw.com)

William H. Carpenter  
WILLIAM H. CARPENTER LAW OFFICE  
Post Office Box 35070  
Albuquerque, NM 87176-5070  
(505) 243-1336  
[bill@carpenter-law.com](mailto:bill@carpenter-law.com)

Ronald I. Kaplan, MD, JD  
KAPLAN & LUKOWSKI, LLP  
333 Sandy Springs Circle  
Suite 200  
Atlanta, Georgia 30328  
(404) 845-0012 (x202)  
[rik@kaplanlegal.com](mailto:rik@kaplanlegal.com)

*Attorneys for Plaintiffs*

APPROVED:

Approved 7-16-18

Erin Langenwalter  
United States Attorney's Office  
District of New Mexico  
P.O. Box 607  
Albuquerque, NM 87103  
505-346-7282  
[Erin.Langenwalter@usdoj.gov](mailto:Erin.Langenwalter@usdoj.gov)

Ruth Fuess Keegan  
United States Attorney's Office  
District of New Mexico  
P.O. Box 607  
Albuquerque, NM 87103

505-346-7282

[Ruth.F.Keegan@usdoj.gov](mailto:Ruth.F.Keegan@usdoj.gov)

*Attorneys for Defendant*